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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1821 OF 2005
IN
INCOME TAX APPEAL (LOD) NO.701 OF 2005

Commissioner of Income Tax ..Appellant.

V/s.

M/s.Dimplex Leasing & Finance Ltd. ..Respondent.

Mr.S.M.Shah for appellant.

Mr.B.V.Jhaveri for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 22ND OCTOBER, 2007.

P.C. :-

There is a delay of 231 days in preferring the appeal. There is affidavit in support of the motion for condoning the delay. The respondent has filed their reply opposing the condonation of delay.

2. From the record, we find that the order was received by the office of CIT-IX, Mumbai on 16/6/2004. The Chief CIT's approval was received on 14/9/2004. The file was sent to the Ministry of Law on 15/9/2004 and the draft appeal memo was received on 25/5/2005. The appeal was filed on 3/6/2005. In the reply opposing the condonation of delay, it is sought to be

explained that no reasons at all has been given for this delay. It is contended that this Court has to exercise its discretion. The discretion has to be exercised with pragmatism and be justice oriented. In the instant case, in absence of any explanation for the delay between 15/9/2004 and 25/5/2005 the delay ought not to be condoned.

3. We have also gone through the order of the Tribunal. We find that the findings recorded are purely a finding of fact. In these circumstances, there ought to have been explanation for the delay between 15/4/2004 and 25/5/2005. In absence of any sufficient cause shown, in our opinion the cause shown would not amount to sufficient cause. Hence motion is dismissed.

(J.P.DEVADHAR, J.)

(F.I.REBELL0, J.)